

WORKER'S DISABILITY COMPENSATION ACT OF 1969 (EXCERPT)
Act 317 of 1969

CHAPTER 4
OCCUPATIONAL DISEASES AND DISABLEMENTS

418.401 Definitions; determination of entitlement to weekly wage lost benefits; notice to Michigan employment security commission; priorities in finding employment; notice of employee refusing offer of employment; termination of benefits; "reasonable employment" defined; personal injuries or work related diseases to which section applicable.

Sec. 401. (1) As used in this chapter, "disability" means a limitation of an employee's wage earning capacity in work suitable to his or her qualifications and training resulting from a personal injury or work related disease. The establishment of disability does not create a presumption of wage loss.

(2) As used in this act:

(a) "Disablement" means the event of becoming so disabled.

(b) "Personal injury" shall include a disease or disability which is due to causes and conditions which are characteristic of and peculiar to the business of the employer and which arises out of and in the course of the employment. An ordinary disease of life to which the public is generally exposed outside of the employment is not compensable. Mental disabilities and conditions of the aging process, including but not limited to heart and cardiovascular conditions, shall be compensable if contributed to or aggravated or accelerated by the employment in a significant manner. Mental disabilities shall be compensable when arising out of actual events of employment, not unfounded perceptions thereof. A hernia to be compensable must be clearly recent in origin and result from a strain arising out of and in the course of the employment and be promptly reported to the employer.

(3) If disability is established pursuant to subsection (1), entitlement to weekly wage loss benefits shall be determined pursuant to this section and as follows:

(a) If an employee receives a bona fide offer of reasonable employment from the previous employer, another employer, or through the Michigan employment security commission and the employee refuses that employment without good and reasonable cause, the employee shall be considered to have voluntarily removed himself or herself from the work force and is no longer entitled to any wage loss benefits under this act during the period of such refusal.

(b) If an employee is employed and the average weekly wage of the employee is less than that which the employee received before the date of injury, the employee shall receive weekly benefits under this act equal to 80% of the difference between the injured employee's after-tax weekly wage before the date of injury and the after-tax weekly wage which the injured employee is able to earn after the date of injury, but not more than the maximum weekly rate of compensation, as determined under section 355.

(c) If an employee is employed and the average weekly wage of the employee is equal to or more than the average weekly wage the employee received before the date of injury, the employee is not entitled to any wage loss benefits under this act for the duration of such employment.

(d) If the employee, after having been employed pursuant to this subsection for 100 weeks or more loses his or her job through no fault of the employee, the employee shall receive compensation under this act pursuant to the following:

(i) If after exhaustion of unemployment benefit eligibility of an employee, a worker's compensation magistrate or hearing referee, as applicable, determines for any employee covered under this subdivision, that the employments since the time of injury have not established a new wage earning capacity, the employee shall receive compensation based upon his or her wage at the original date of injury. There is a presumption of wage earning capacity established for employments totalling 250 weeks or more.

(ii) The employee must still be disabled as determined pursuant to subsection (1). If the employee is still disabled, the employee shall be entitled to the wage loss benefits based on the difference between the normal and customary wages paid to those persons performing the same or similar employment as determined at the time of termination of employment of the employee and the wages paid at the time of the injury.

(iii) If the employee becomes reemployed and the employee is still disabled, the employee shall then receive wage loss benefits as provided in subdivision (b).

(e) If the employee, after having been employed pursuant to this subsection for less than 100 weeks, loses his or her job through no fault of the employee, the employee shall receive compensation based upon his or her wage at the original date of injury.

(4) A carrier shall notify the Michigan employment security commission of the name of any injured employee who is unemployed and to which the carrier is paying benefits under this act.

(5) The Michigan employment security commission shall give priority to finding employment for those persons whose names are supplied to the commission under subsection (4).

(6) The Michigan employment security commission shall notify the bureau in writing of the name of any employee who refuses any bona fide offer of reasonable employment. Upon notification to the bureau, the bureau shall notify the carrier who shall terminate the benefits of the employee pursuant to subsection (3)(a).

(7) As used in this section, "reasonable employment" means work that is within the employee's capacity to perform that poses no clear and proximate threat to that employee's health and safety, and that is within a reasonable distance from that employee's residence. The employee's capacity to perform shall not be limited to work suitable to his or her qualifications and training.

(8) This section shall apply to personal injuries or work related diseases occurring on or after June 30, 1985.

History: Add. 1985, Act 103, Imd. Eff. July 30, 1985;—Am. 1986, Act 314, Imd. Eff. Dec. 23, 1986;—Am. 1987, Act 28, Imd. Eff. May 14, 1987.

Compiler's note: For legislative intent as to severability, see Compiler's note to MCL 418.213.

Former MCL 418.401, which pertained to definitions, was repealed by Act 103 of 1985, Imd. Eff. July 30, 1985.

Popular name: Act 317

418.405 Fire or police department members, county sheriff and deputies, state police, conservation officers, and motor carrier inspectors; "personal injury" as including respiratory and heart diseases or resulting illnesses; arising out of and in the course of employment; application for pension benefits as condition precedent; final determination; copies.

Sec. 405. (1) In the case of a member of a full paid fire department of an airport run by a county road commission in counties of 1,000,000 population or more or by a state university or college or of a full paid fire or police department of a city, township, or incorporated village employed and compensated upon a full-time basis, a county sheriff and the deputies of the county sheriff, members of the state police, conservation officers, and motor carrier inspectors of the Michigan public service commission, "personal injury" shall be construed to include respiratory and heart diseases or illnesses resulting therefrom which develop or manifest themselves during a period while the member of the department is in the active service of the department and result from the performance of duties for the department.

(2) Such respiratory and heart diseases or illnesses resulting therefrom are deemed to arise out of and in the course of employment in the absence of evidence to the contrary.

(3) As a condition precedent to filing an application for benefits, the claimant, if he or she is one of those enumerated in subsection (1), shall first make application for, and do all things necessary to qualify for any pension benefits which he or she, or his or her decedent, may be entitled to. If a final determination is made that pension benefits shall not be awarded, then the presumption of "personal injury" as provided in this section shall apply. The employer or employee may request 2 copies of the determination denying pension benefits, 1 copy of which may be filed with the bureau.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1971, Act 17, Imd. Eff. May 5, 1971;—Am. 1971, Act 188, Imd. Eff. Dec. 20, 1971;—Am. 1980, Act 457, Imd. Eff. Jan. 15, 1981.

Popular name: Act 317

418.411 Disablement treated as personal injury.

Sec. 411. The disablement of an employee resulting from such disease or disability shall be treated as the happening of a personal injury within the meaning of this act and the procedure and practice provided in this act shall apply to all proceedings under this chapter, except where specifically otherwise provided herein.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.415 Death or disablement compensation.

Sec. 415. If an employee is disabled or dies and his disability or death is caused by a disease and the disease is due to the nature of the employment in which such employee was engaged and was contracted therein, he or his dependents shall be entitled to compensation and other benefits for his death or for his disablement, all as provided in this act.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.425 Date of disablement.

Sec. 425. For the purposes of this chapter the date of disablement shall be the date the hearing referee or worker's compensation magistrate, as applicable, may determine on hearing of the claim.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1985, Act 103, Imd. Eff. July 30, 1985.

Compiler's note: For legislative intent as to severability, see Compiler's note to MCL 418.213.

Popular name: Act 317

418.431 Employer's liability; conditions exempting and limiting.

Sec. 431. No compensation shall be payable for an occupational disease if the employee at the time of entering into the employment of the employer by whom the compensation would otherwise be payable, or thereafter, wilfully and falsely represents in writing that he has not previously suffered from the disease which is the cause of the disability or death. Where an occupational disease is aggravated by any other disease or infirmity, not itself compensable, or where disability or death from any other cause, not itself compensable, is aggravated, prolonged, accelerated or in any way contributed to by an occupational disease, the compensation payable shall be a proportion only of the compensation that would be payable if the occupational disease were the sole cause of the disability or death as such occupational disease, as a causative factor, bearing to all the causes of such disability or death, such reduction in compensation to be effected by reducing the number of weekly payments or the amounts of such payments, as under the circumstances of the particular case may be for the best interest of the claimant or claimants.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.435 Employer from whom total compensation recoverable; effect of dispute or controversy.

Sec. 435. The total compensation due shall be recoverable from the employer who last employed the employee in the employment to the nature of which the disease was due and in which it was contracted. If any dispute or controversy arises as to the payment of compensation or as to liability for the compensation, the employee shall make claim upon the last employer only and apply for a hearing against the last employer only.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1972, Act 337, Imd. Eff. Jan. 4, 1973;—Am. 1980, Act 357, Eff. Jan. 1, 1981.

Popular name: Act 317

418.441 Claim for occupational disease and death resulting from occupational disease; requirements; commencement; time limit.

Sec. 441. (1) The requirements of claim for occupational disease and death resulting from an occupational disease and the requirements as to the bringing of proceedings for compensation for disability or death resulting from the occupational disease are the same as required in chapter 3, except that the claim of occupational disease or death resulting from an occupational disease shall commence from the date the employee or a deceased employee's dependents had knowledge, or a reasonable belief, or through ordinary diligence could have discovered, that the occupational disease or death was work related.

(2) A claim shall not be valid or effectual for any purpose under this chapter unless made within 2 years after the date the employee or dependents of a deceased employee had knowledge, or a reasonable belief, or through ordinary diligence could have discovered that the occupational disease or death was work related.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1980, Act 357, Eff. Jan. 1, 1982.

Popular name: Act 317